UNITED
NATIONS

E

Economic and Social
Council

Distr.
GENERAL

E/CN.4/Sub.2/AC.2/1995/5
23 March 1995

ENGLISH
Original: ENGLISH/FRENCH/
SPANISH

COMMISSION ON HUMAN RIGHTS
Sub-Commission on Prevention of
Discrimination and Protection
of Minorities
Working Group on Contemporary
Forms of Slavery
Twentieth session
19-28 April 1995
Item 3 (b) of the provisional agenda

# REVIEW OF THE IMPLEMENTATION OF AND FOLLOW-UP TO THE CONVENTIONS ON SLAVERY

## REVIEW OF INFORMATION RECEIVED REGARDING THE IMPLEMENTATION OF THE CONVENTIONS AND PROGRAMMES OF ACTION

Report of the Secretary-General containing information received from States regarding the implementation of the conventions, submitted pursuant to Commission on Human Rights resolution 1994/25

CONTENTS

| | Paragraphs | Page |
|---|---|---|
| Introduction | 1 - 2 | 2 |
| REPLIES RECEIVED FROM GOVERNMENTS | 3 - 77 | 3 |
| Angola | 3 | 3 |
| Czech Republic | 4 - 13 | 3 |
| Finland | 14 - 24 | 6 |
| Greece | 25 - 29 | 7 |
| Nepal | 30 | 9 |
| Philippines | 31 - 47 | 9 |
| Spain | 48 - 52 | 13 |
| Sweden | 53 - 57 | 15 |
| Switzerland | 58 - 66 | 16 |
| Yugoslavia | 67 - 77 | 18 |

GE.95-12424 (E)

## Introduction

1. In its resolution 1994/25, paragraph 7, the Commission on Human Rights requested the Secretary-General to invite States parties to the Slavery Convention of 1926, the Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery of 1956 and the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others of 1949 to submit to the Working Group regular reports on the situation in their countries.

2. Accordingly, on 2 December 1994, the Secretary-General sent a note verbale to Governments soliciting the required information. The replies are contained in the present document, which also includes replies from Governments received too late to be included in the document on this subject submitted to the Working Group at its nineteenth session.

## REPLIES RECEIVED FROM GOVERNMENTS

### Angola

[Original: French]
[4 January 1995]

3. The Government of Angola wishes to state that slavery, the slave-trade and practices similar to slavery, and the exploitation of the prostitution of others do not exist in Angola. The Angolan Government is, however, seriously considering ratifying the three conventions on slavery, and only the grave and pressing problems facing the country have prevented it from doing so.

### Czech Republic

[Original: English]
[9 February 1995]

4. The Czech Republic acceded as of 1 January 1993 to the international treaties on human rights including those prohibiting various forms of slavery: the Slavery Convention of 1926, the Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices Similar to Slavery of 1956 and the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others of 1949.

5. The protection of all persons within the jurisdiction of the Czech Republic against slavery is guaranteed in the Czech law, namely in the Charter of Fundamental Rights and Freedoms, in its articles 1, 2, 7, 8 and 9.

6. Article 1 states that all people are free and equal in their dignity and in their rights. Their fundamental rights and freedoms are inherent, inalienable and irrepealable. Article 7 further provides for the inviolability of the person, which may be limited only in cases specified by law. Article 8 specifies, inter alia that personal freedom is guaranteed. Nobody may be prosecuted or deprived of his or her freedom except on grounds and in a manner specified by law. Nobody may be deprived of his or her freedom merely because of his or her inability to meet a contractual obligation. Article 9 states that nobody may be subject to forced labour or service, except in the following cases:

(a) Work ordered in accordance with the law of persons serving a prison term or of persons serving other penalties replacing the penalty of imprisonment;

(b) Military service or other service prescribed by law in place of military duty;

(c) Service required on the basis of law in cases of natural disasters, accidents or other dangerous situations threatening human life, health or considerable material damage;

(d) Action ordered in accordance with the law to protect ~~the~~ life, health or rights of others.

7. In the sphere of labour law, the legal regulations in force do not allow any form of slavery or exploitation of women and children. This proceeds from the Charter of Fundamental Rights and Freedoms which, in its article 29, embodies the right of women and youth to increased protection of health at work and to special working conditions. Young people have the right to special protection in labour relations and to help in the course of preparation for their professions. Under article 36 of the Charter, women and young people may assert their rights in the relevant independent and impartial courts.

8. Under article VII of the Basic Principles of the Labour Code, women are entitled to the same position at work as men. Women are guaranteed working conditions which enable them to participate in the working process, not only with regard to their physical conditions but mainly regarding their social function in motherhood and in the upbringing and care of children. Article VIII of the Principles specifies that young people have the right to prepare themselves for their professions and the right to working conditions propitious to the successful development of their physical and mental abilities.

9. An adolescent under 15 years of age cannot enter into a legal labour relationship since legal labour competence is reached only upon attainment of the age of 15 and upon completion of compulsory school attendance. Within the framework of its control activities, the Ministry of Labour and Social Affairs has not revealed any cases of abuse of child labour. With the increasing number of private enterprises it is predictable that the number of children employed by their parents will increase. However, even the employment of this category of children is illegal before the completion of their compulsory school attendance.

10. The protection of persons is further guaranteed by Act No. 140/1961 of the Collected Laws, as amended by the later regulations (Criminal Law), which sanctions inter alia the following crimes:

(i) Procurement (art. 204); paragraph 1 of this provision specifies that "procurement" is a crime committed by a person who hires, induces or seduces another person to practise prostitution or who profits from prostitution practised by another person.

(ii) Trade in women (art. 246).

(iii) Trade in children (art. 216a); a person who entrusts a child to another person against payment for the purposes of adoption, use of child labour or for other purposes is a criminal under the law.

11. Other crimes could also possibly be considered:

(a) Abduction (art. 216); "abduction" is a crime committed by a person who has illegally taken a child away from the custody of a person having the duty to care for it under the law or under an official decision;

(b) Endangering morality (art. 205); the crime of "endangering morality" is committed by a person who puts into circulation, spreads, makes

publicly available, produces or imports pornography or other objects endangering morality which show sexual intercourse with a child. Under article 205, paragraph 2, such a crime is committed by a person who gives or makes available to a person under 18 years of age pornographic literature, audio or visual recordings or pictures, or who exhibits them or otherwise makes them available at a place to which persons under 18 years of age have access;

(c) Endangering the moral education of youth (art. 217); the crime of "endangering the moral education of youth" is committed by a person who exposes, even by negligence, a person under 18 years of age to moral danger by enabling him/her to lead an idle life or an indecent life or seduces such persons to do so;

(d) Illegal deportation abroad (art. 233);

(e) Extortion (art. 235);

(f) Oppression (art. 237);

(g) Restraint on personal freedom (art. 231);

(h) Removal of personal freedom (art. 232).

12. For the purpose of increased protection of children against contemporary forms of slavery the Government of the Czech Republic has completed the draft national plan for implementation of the World Declaration on the Survival, Protection and Development of Children in the 1990s, which proposes, inter alia, methods for the elimination of the causes of child prostitution and of other forms of sexual abuse of children and for the implementation of effective measures to control the use of children in private enterprises, including the obligation to report of parents and neighbours, etc. In addition draft guidelines for state policy in relation to the young generation for the period of 1994-1997 and draft principles for the Act on Protection and Support of Children and Youth have been drawn up.

13. Last but not least, in the context of the International Year of the Family educational programmes for families have been initiated and are currently being implemented. These programmes address general and specific problems of the contemporary Czech family. Training programmes are provided for specialists in family issues and for their voluntary helpers, as well as research programmes intended to provide the true picture of the contemporary family in the Czech Republic and the impact of the social and economic changes on the members of the family, on children and youth and on specific social groups.

## Finland

[Original: English]
[14 April 1994]

14. The Government of Finland considers it important that the dangerously increasing problems of contemporary forms of slavery referred to in the inquiry of the Secretary-General be given the urgent attention they merit both at the national and international, as well as regional and global levels. The basic concept of human dignity, present in all human rights treaties, cannot be allowed to be threatened by powerful economic interests involved in different forms of trafficking in sexuality.

15. Traffic in persons, prostitution and pornography are closely linked to economic questions. The economic situation of every person and the families of children should be such that it will not force any woman or man to become involved in any of these activities.

16. It is especially important to refer to the obligations contained in such more recent human rights instruments as the Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Rights of the Child. Questions relating to the sexual exploitation of women and children should be focused upon in the preparation and in the examination of the national reports.

17. Finland has ratified the 1949 Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others. Thus, traffic in persons, both adult and children, is in Finland a criminal offence. Also, commercial adoptions are prohibited by law in Finland.

18. Problems relating to various forms of sexual exploitation of others, especially prostitution, have been for a long time a subject which has not been dealt with by the administration or in the general debate. Only recently, when Finland has been increasingly the target of international marketing efforts for increased "consumption" of pornography and prostitution, has public reaction enhanced the attention devoted to this question by the administration. This may have been facilitated also by the fact that in the context of the second Finnish report to the Committee on the Elimination of Discrimination against Women, a special study was made and published together with the text of the 1949 Convention to make the problems more visible and the text of the Convention more easily available to the authorities concerned.

19. Until recently, child prostitution and child pornography were not considered to be a major problem in Finland. The situation is deteriorating and awareness of the problems is increasing. Attention has been paid to this problem also by the Nordic Council. In the autumn of 1993, a seminar on child prostitution was arranged in Finland jointly by concerned organizations and authorities.

20. During the past few years, various forms of "commercial sex" have increased in Finland. The rapid deterioration of the economic situation has caused mass unemployment. The economic independence of women, which has been an important preventive factor against prostitution and other forms of

exploitation of their sexuality, is threatened. Job seekers no longer have the same possibilities as before to choose their employment. They may have to accept work which is not in accordance with their education, attitudes or values. A seemingly voluntary choice of employment in the "sex business" may in fact be based on economic necessity. Several phenomena in the "sex business" violate human rights, especially women's rights and the goals of equality. Most of the employees in the "sex business" are women. Generally they do the practical work, whereas the men in the business are mainly organizers, directors and those who profit from it.

21. Owing to the public reaction, the Council for Equality appointed in September 1993 an ad hoc committee to study phenomena related to commercial sex (the "sex business"). Its report was published in December 1993. On the recommendation of the ad hoc committee, a working group consisting of representatives of different ministries responsible for legislative and administrative action was appointed in February 1994 to assess the present situation and make proposals on amending and developing legislation.

22. The Ministry for Social Affairs and Health has stated that social welfare and health-care services and social and economic support should be available both before the above-mentioned problems occur and in connection with help and rehabilitation for persons in such situations. However, much remains to be done in the field of practical work to develop both prevention and rehabilitation services. A seminar organized in February 1994 by the Council for Equality focused on these questions with the help of international experts.

23. Information is needed both in order to offer help and support and also for prevention of the problems. In the administrative sector of the Ministry for Social Affairs and Health, health and temperance education are used in order to support positive sexual behaviour and to prevent the abuse of drugs. Prostitution is often linked to the financing of drug abuse.

24. In Finland, as elsewhere, organizations have been important movers to get the debate on different forms of abuse of sexuality placed on the political agenda. Organizations have often carried out pioneering work, which should be followed up by action on the part of the public authorities at the national and local levels.

## Greece

[Original: English]
[14 September 1994]

25. The Government of Greece stated that the Slavery Convention as well as the Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery were approved by Laws 4473/1930 and 1145/72, respectively. The Convention for the Suppression of the Traffic in Persons and the Exploitation of the Prostitution of Others has not yet been approved.

26. Greek legislation already contains the provisions provided by the above-mentioned conventions for the effective prosecution and punishment of

any act of slave trading or trafficking and the penal sanctions may include life imprisonment. These sanctions have been incorporated into the 18th Chapter of the Criminal Code in which crimes against personal freedom are included, since these acts offend personal freedom and dignity which, by virtue of an explicit constitutional provision (art. 2, para. 1), constitute a primordial obligation of the State. In particular, article 323 of the Criminal Code (Slave Trade) stipulates the following:

> "(1) Anyone who has conducted the slave trade shall be punished by imprisonment.
>
> "(2) The term slave trade comprises any act of capture, acquisition and disposal of a person, aiming at rendering him a slave, any act of acquisition of a slave with the purpose of his reselling or his exchange, the act of assignment for sale or exchange of a slave and, in general, any act of slave trade or traffic.
>
> "(3) Anyone who undertakes any service in a ship, being aware of the fact that the ship is intended for the conduct of the slave trade or of the fact that it is already being used for that purpose, as well as any person who remains on his own free will in that service, being aware of the above-mentioned intention of the ship or her use for such a purpose shall be punished by imprisonment of at least six months.
>
> "(4) Anyone who contributed, directly or indirectly, to the chartering of a ship, being aware of the fact that the chartering aims at the conduct of the slave trade shall be punished by imprisonment of at least six months.
>
> "(5) Anyone who transports from a place to another slaves, with no purpose of trading them, but also without this transport being made with the purpose of their release shall be punished by imprisonment.
>
> "(6) The owner and the master of the ship whereby such a traffic would be made and who are aware of that shall be punished by the same punishment."

27. The importance attributed by the Greek legislator to the effective prosecution and punishment of these acts is made clearer in article 8 of the Criminal Code in which it is stipulated that the Greek criminal laws apply to Greeks and foreigners alike in case of slave trade or procurement with the purpose of debauchery committed abroad, regardless of the laws of the land where these acts were committed. It should be noted, however, that the Greek judicial authorities have never, so far, dealt with such a case.

28. Furthermore, in article 22, paragraph 3, of the Constitution, it is stipulated that any form of enforced labour shall be prohibited. Within the framework of the provisions of this article of the Constitution as well as the relevant provisions deriving from international legislative instruments, provisions contained in the Correctional Code in force are foreseen concerning the employment of persons detained in prisons (art. 64-76 of Law 1851/1989).

29. The Government of Greece further stated that the phenomenon of sexual exploitation has not been observed in the country. The Ministry of Education ensures that secondary education includes health education programmes focusing on healthy ways of life and the healthy development of personality and of self-respect. It is believed by the Greek authorities that a strong personality, in conjunction with career advisory courses, creates the ability of the young person to resist exploitation including sexual exploitation.

## Nepal

[Original: English]
[30 January 1995]

30. The Government of Nepal recalled that it had already ratified the Slavery Convention of 1926 and the Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery of 1956. It has been seriously considering becoming a party to the Convention on the Suppression of the Traffic in Persons and the Exploitation of the Prostitution of Others of 1949.

## Philippines

[Original: English]
[12 April 1994]

### CHILD PROTECTION

31. A comprehensive programme of child protection is in place, which includes services for child victims of prostitution and paedophilia. Outlined below is a consolidated report on the projects and activities undertaken by the Government, as well as by non-governmental agencies, in the area of child protection, focusing on child abuse, prostitution and paedophilia.

### A. Advocacy/preventive strategies/activities

32. The Bantay Bata Hotline project is an information, dissemination and education campaign aimed at increasing the awareness of the public on the rights of children, as well as the plight of abused, abandoned, exploited and neglected children, and at encouraging the public to report cases of child abuse and exploitation through the use of the media and the community as hotlines. This is a joint project of the Department of Social Welfare and Development (DSWD), UNICEF, ABS-CBN and other radio and television networks.

33. Production of a primer on child abuse: the primer is focused on the rights of the child to protection against exploitation, improper influences, hazards and other conditions prejudicial to his physical, mental, emotional and mental development. Moreover, it describes the types of abuses that can be committed against a child, the physical, sexual and psychological indicators of an abused child and the services that are available to the victim and his family. It also shows the flow of referral of cases of abuse and where to report such cases.

34. Advocacy for policies and legislation on child protection: the conduct of consultation and dialogue between and among governmental bodies and non-governmental organizations in drafting and monitoring policies and legislation on child protection which resulted in the enactment of:

(a) Republic Act No. 7610, otherwise known as the Special Protection for Children against Abuse, Exploitation and Dissemination Act, passed in June 1992 and signed into law by the former President, Corazon Aquino;

(b) Executive Order 56, Authorizing the Department of Social Welfare and Development to Take Protective Custody of Child Prostitutes and Sexually Exploited Children and for Other Purposes, which was promulgated in 1986;

(c) Rules and Regulations on the Reporting and Investigation of Child Abuse Cases;

(d) Circular Memorandum No. 92-010, Guidelines on the establishment of a children and youth relations section in all NCR and highly urbanized city police stations and/or designation of a children and youth relations officer in other police stations, and the adoption of a handbook for police officers on the management of children in especially difficult circumstances.

35. Themes on children's rights and child protection are being included in television and radio programmes and the print media for the information of the public.

36. Another activity is the setting up of DSWD desks at international airports to screen minors travelling abroad unaccompanied by their parents, in collaboration with the Department of Foreign Affairs and the Bureau of Immigration.

37. Organization of the Local Council for the Protection of Children, composed of barangay officials, representatives of the different sectors in the barangay: the purpose of this Council is to identify children at risk and refer cases of child abuse and exploitation to the appropriate authorities.

B. Treatment and rehabilitation for child victims and their families

38. The implementation of the Special Project for Sexually Exploited Children entails the provision of special social services such as protective custody, child and family casework/counselling, medical, psychological/psychiatric and legal assistance; the provision of education and skills training to help the child and family cope with the trauma of abuse, as well as his/her psycho-social recovery. Services are provided in two settings:

(a) Community-based services are provided to children who are living with their families.

(b) Child protection centres are facilities serving as receiving and action centres for referral of reports of sexual abuse cases, and as therapeutic centres. The centre-based services are provided for children who cannot remain in their own homes because of the risk of further abuse. Children are put in protective custody in residential facilities/centres. The

centres provide them with rehabilitation services, while working with their families in preparation for their eventual return to their families or for other alternative parental care.

39. Organization of Child Protection Teams - composed of the social worker, police and psychologist/psychiatrist (if available in the area) to provide immediate action of reports/referrals of child abuse cases.

40. A therapeutic centre has been established in Metro Manila, where child victims of sexual abuse and exploitation go for therapeutic sessions with the social worker and/or the psychologist and psychiatrist who man the centre. Sessions with parents' groups are also conducted.

## C. Training and research

41. Considering the nature and dynamics of sexual abuse cases, various training has been conducted for specific workers handling this type of case.

| Type of training | Participants |
|---|---|
| Basic management course for social workers | Social workers |
| Training for police officers in the handling of children in especially difficult circumstances | Police officers |
| Training for psychologists in the psycho-social rehabilitation of sexually abused children | Psychologists |
| Child in the justice system | Judges and prosecutors |
| Hands-on training in the conduct of therapeutic activities for sexually abused and exploited children | Social work supervisors and specialists |
| Training of trainers in the psycho-social rehabilitation of sexually abused and exploited children | Heads of institutions, specialists and programme developers, social workers and police officers |
| Training in para-legal services | Social workers and police officers |

42. Likewise, considering that there is a dearth of local literature and studies on sexual abuse cases, research was conducted on the following:

(i) In-depth research for the psycho-social rehabilitation of sexually abused street children;

(ii) A study on the perception of sexual abuse among 7 to 14-year-old street children at three drop-in centres in Metro Manila.

43. The following handbooks and manuals were produced:

Police Handbook in the Management of Cases of Children in Especially Difficult Circumstances, providing specific courses of action and measures to protect the rights and promote the welfare of children, and emphasizing the need for police officers to demonstrate both humane understanding of children's situations and concern for their rehabilitation;

Helping Street Children in Especially Difficult Circumstances, a guidebook for social work practitioners in handling sexually and physically abused and drug dependent children;

Manual on Child Protection Services, a self-instruction manual which outlines the specific procedures that a social worker would undertake in the management of child abuse cases;

Compendium of Case Studies on Sexually Abused Children, used for demonstration of the case management of sexually abused children for practitioners, as well as for students pursuing a degree in social work.

44. Data banks: (i) list the names of suspected foreign and local paedophiles; (ii) list the number of reported cases of sexual abuse and victims of paedophiles; (iii) profile reported cases as to age, educational attainment, family size and regional location, inter alia.

## D. Networking

45. Linkages with the following governmental and non-governmental organizations working for the protection of children were established:

(i) Department of Justice, for legal assistance;

(ii) Department of Health, for medical assistance;

(iii) Philippine National Police (PNP), National Bureau of Investigation, Bureau of Immigration, for surveillance and investigation of suspected paedophiles and club maintainers;

(iv) Department of Education, Culture and Sports, for educational assistance;

(v) Non-governmental organizations, among others the End Child Prostitution in Asian Tourism (ECPAT), Defence for Children International (DCI) (Philippine Section), Stop Trafficking of Filipinos (STOP), Salinlahi, Kabalikat, CARITAS, which provide temporary shelter, care and rehabilitation, and other child-caring agencies;

(vi) International agencies such as the International Social Service in Germany, Switzerland, Japan and Italy and other foreign governmental agencies which provide immediate intervention in cases of child trafficking and abandoned Filipino children.

## E. In-depth investigation

46. There is no recorded case involving the removal of organs from Filipino children. This issue however should be taken seriously inasmuch as there are recorded cases of Filipino children being trafficked abroad and the country has an intercountry adoption programme. Monitoring of such cases should be intensified.

## F. Technical assistance

47. The Government of the Philippines particularly the Department of Social Welfare and Development would very much welcome technical assistance under the United Nations programme.

## Spain

[Original: Spanish]
[3 February 1995]

48. Employment of child labour

Article 6 of the Worker's Charter adopted under Act No. 8 of 10 March 1980, states as follows:

> "1. It shall not be lawful to admit a person to employment if he is under 16 years of age.
>
> "2. No worker under 18 years of age shall be employed on night work or processes or jobs that the Government, acting on a recommendation made by the Ministry of Labour after consultation with the most representative trade union organizations, declares to be unhealthy, arduous, harmful or dangerous to his health, vocational training or personal development.
>
> "3. It shall not be lawful to employ young persons under 18 years of age on overtime.
>
> "4. Permission for a young person under the age of 16 years to take part in public entertainments shall be given by the labour authority only in exceptional cases, and then only if there is no reason to suppose that the work will be a danger to his physical health, vocational training or personal development; such permission must be given in writing and for specified activities."

49. Exploitation of minors

Article 480 bis of the Penal Code punishes the use of minors for begging and states:

> "Those who use or procure persons less than 16 years of age for begging shall be punished by brief imprisonment.
>
> "Those who for the purposes of the preceding paragraph traffic in persons less than 16 years of age, use violence or threats against them

or supply them with substances prejudicial to their health shall be subject to the penalty of the next highest degree.

"If it deems it appropriate, the Court, having regard to the circumstances of the minor, may deprive the father or guardian responsible for such acts of his parental authority or rights of guardianship.

"In any case, the public prosecutor's office shall urge upon the competent court the adoption of pertinent measures for the proper care and protection of the minor."

50. Child Prostitution

In Spain, the corruption of minors is punished under the provisions of articles 452 bis, b:

"Short-term imprisonment in the medium or maximum degree, general disqualification for those who are officials or agents of a public authority and specific disqualification for those who are not, and a fine of from 100,000 to 500,000 pesetas shall be the penalties incurred:

"1. By whoever promotes, encourages or facilitates the prostitution or corruption of a person less than 18 years of age;

"2. Whoever in order to satisfy the sexual desires of a third party provides the facilities for or exercises any kind of inducement upon persons less than 18 years of age, even where there is consent;

"3. Whoever by means of promises or agreements, even with a semblance of legality, leads into prostitution or causes the prostitution of persons less than 18 years of age, whether on Spanish territory or in order to take them abroad for the same purpose;

"4. Whoever, for any reason or under any pretext, aids or abets the continuation in corruption or the stay of persons less than 18 years of age in brothels or places of ill repute."

And 452 bis, e of the Penal Code, which states:

"Anyone with authority over a minor who, being aware that the latter is engaged in prostitution, is being corrupted or is living in or frequenting brothels and places of ill repute, does not remove him to prevent him from continuing to lead such a life and does not take him into his care or place him at the disposal of the authorities, if he is himself unable to look after him, shall be liable to brief imprisonment.

"A similar penalty shall be imposed on anyone who, in the cases mentioned in the preceding paragraph, commit the offences sanctioned therein, even if he does not have legal authority over the minor, if at the time the latter was led astray he had him in his home and in his care or exercised over him, de facto, family or ethical and social authority."

51. Adoption of minors

The adoption of minors is governed by the Civil Code, articles 172 to 180.

52. Finally, article 39.4 of the Spanish Constitution guarantees that "children shall enjoy the protection provided in the international agreements which safeguard their rights".

## Sweden

[Original: English]
[8 March 1995]

53. The question of ratification by Sweden of the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others of 1949 has been examined carefully by the concerned ministries. The result of this examination was that there are several reasons for Sweden not to ratify the Convention.

54. Domestic legislation does not per se constitute an obstacle to ratification. The main reason, however, for Swedish uneasiness with the Convention is its obsolescence. The Government doubts that the Convention is an effective means of suppressing traffic in persons and of combating the problems arising from prostitution in today's society. The Convention contains several examples that bear witness to its old-fashioned spirit. One of the examples is article 17, which contains a list of measures designed to check traffic in persons of either sex for the purpose of prostitution. It seems unlikely that prostitution would decrease as a result of the application of the methods enumerated in that article.

55. Another aspect of article 17, in particular of its paragraph 4, is that it might also be questioned whether informing the appropriate authorities of the arrival of "prima facie victims" of international traffic in persons for the purpose of prostitution is not an interference with those individuals' right to respect for privacy. The same argument may also have a bearing on the declarations to be "taken from aliens who are prostitutes" in accordance with article 18.

56. Furthermore, it may also be questioned whether the provision in article 7, paragraph 2, on the disqualification from exercise of civil rights might not conflict with the contents of other human rights instruments. It would be with considerable hesitation that Sweden would subscribe to a provision which at all allowed for such disqualification, even in spite of the limitation prescribed by the wording "to the extent permitted by domestic law".

57. From a Swedish viewpoint, the efforts to reduce violence against women and to eliminate problems arising from prostitution and other exploitation involving women are considered to be of utmost importance with respect to efforts to further equality between the sexes. However, prostitution is not solely a phenomenon that involves women. There already exist human rights instruments which include provisions on female and child prostitution: the

Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Rights of the Child. However, there might still be a need for a modern instrument which focuses on the roots of prostitution as such, regardless of whether it affects women, children or men. It is important to ensure that any new instrument in this field is based on modern concepts and the respect for the privacy of the individual.

## Switzerland

[Original: French]
[21 March 1994]

### Ratification of the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others of 1949

58. Switzerland has been a party to the 1926 Convention on Slavery since 1 November 1930, and to the 1956 Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery since 28 July 1964, but it has not ratified the 1949 Convention on the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others. It has also ratified International Labour Organization Conventions Nos. 29 and 105 on Forced Labour.

59. The Centre for Human Rights has invited the States which have not acceded to the international conventions on slavery to explain why they have not done so, in accordance with paragraph 26 of resolution 1993/5 of the Sub-Commission on Prevention of Discrimination and Protection of Minorities. The Centre's inquiry has given rise, within the federal services concerned, particularly the Human Rights Section of the Federal Department of Foreign Affairs and the offices concerned in the Federal Department of Justice and Police and the Federal Department of the Interior, to some discussion regarding the desirability - within the framework of Switzerland's general human rights policy - of ratifying the above Convention. These discussions should lead to conclusions in the course of 1994, of which the Centre will be duly informed.

### National measures for the Suppression of the Traffic in Persons and of the exploitation of the Prostitution of Others

60. The Swiss authorities are not aware of any organized networks of clandestine immigration for the purpose of prostitution, even though they do not exclude the possibility that convenience marriages may have been used for this purpose. In order to relieve the abuse to which "go-go girls", who are led into prostitution by misleading job offers, are sometimes subjected, several measures have been adopted, primarily at the cantonal level, to codify and monitor their employment. For example, a standard contract has been introduced by the Association Suisse des Cafés-Concerts, Cabarets, Dancings et Discothèques (ASCO) and approved by the Federal Office of Industry, Art and Crafts and Labour, to allow better supervision of the conditions and the nature of the activities of cabaret performers. Further details on this subject are given in the first Swiss report on the International Covenant on Civil and Political Rights, which is to be published shortly.

61. Article 196 of the Swiss Penal Code, which entered into force on 1 October 1992, expressly prohibits traffic in persons as follows:

> "1. Any person who, to gratify the passions of another, engages in the traffic in persons, shall be punished by rigorous imprisonment or at least six months' ordinary imprisonment.
>
> "2. Any person who makes arrangements for the traffic in persons shall be punished by rigorous imprisonment for up to five years or by ordinary imprisonment.
>
> "3. In all cases, the offender shall also be liable to a fine."

62. According to article 195 of the Penal Code, which also entered into force on 1 October 1992, the exploitation of the dependence of others for the purpose of prostitution is likewise punishable:

> "Any person who induces a minor to engage in prostitution;
>
> Any person who, exploiting the dependence of another person or with the intention of deriving profit thereby, induces that person to engage in prostitution;
>
> Any person who restricts the freedom of action of a person engaging in prostitution by keeping a watch on that person's activities, or by imposing conditions of place, time, frequency or other;
>
> Any person who maintains a person in prostitution;
>
> shall be punished by rigorous imprisonment for up to 10 years or by ordinary imprisonment."

63. In the Swiss legal system, competence for criminal proceedings lies in principle with the cantons. In particular, the cantonal authorities are not obliged to transmit information they possess in this respect to the federal authorities. There are therefore no central statistics on cases of exploitation of the prostitution of others.

64. It is worth mentioning the substantial information efforts undertaken by the Swiss authorities to prevent the exploitation of foreign women for the purpose of prostitution and sex tourism. Information brochures have been distributed through travel agencies, whose central organization has for the first time included a clause on sex tourism among its directives. Approaches alone these lines have also been made through the Swiss representations in the countries concerned, which will henceforth make an effort to inform women in those countries who apply for visas to work as cabaret artistes in Switzerland.

Removal of organs from children

65. The Swiss authorities are not aware of any cases of foreign children involved in the traffic of organ transplants, but they are nevertheless paying

close attention to developments in this area, both in Switzerland and in the rest of the world.

66. It is as a result of the deep concern regarding this practice, which contravenes many conventions and declarations on human rights, at both European and international level, that the Swiss Government has started procedures with a view to ratifying the Convention on the Rights of the Child of 20 November 1989, which was signed by the Federal Council on 1 May 1991 and which should be submitted to the Federal Parliament this spring. This text, which specifically confirms a number of basic rights for children, will allow Switzerland to act in this area wherever it deems necessary and will provide an additional instrument for combatting the practice of the removal of organs from children.

## Yugoslavia

[Original: English]
[31 January 1995]

67. The Government of Yugoslavia stated that Yugoslavia is a State party to the Slavery Convention, the Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery, the Convention on the High Seas (which contains provisions prohibiting the transport of slaves) and the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others.

68. All ratified instruments, published in the Official Gazette, become an integral part of the national legislation (art. 16 of the Constitution of the Federal Republic of Yugoslavia) which means that a person in breach of the Conventions can be tried before a court of law or an administrative organ and that courts in the Federal Republic of Yugoslavia implement these Conventions in practice.

69. Drawing on the Slavery Convention, the Criminal Code of the former Socialist Federal Republic of Yugoslavia, in force until 1990, provided for the criminal act of slavery in the customary meaning of the word, punishable with 1 to 10 years in prison. In view of article 1 of the Supplementary Convention, the new Criminal Code of the Federal Republic of Yugoslavia has been adjusted to the provisions of that Convention. Article 155 of the Criminal Code provides for the punishment of 1 to 10 years in prison of a person who, in breach of the norms of international law, puts or keeps another person or mediates in the purchase, sale or the handing over of a person in slavery or incites a person to sell his/her freedom or the freedom of the person he/she supports or has in custody. The transport of a person in slavery or a similar relation from one to another country is punishable with 6 months to 5 years in prison.

70. According to the 1993 data, no person has been reported, indicted or sentenced for this criminal act (the 1994 data are not yet available).

71. The Yugoslav criminal law does not criminalize prostitution as a profession. At the same time, the Criminal Code of the Federal Republic of Yugoslavia (art. 251) and the criminal laws of the republics (e.g. art. 111 of

the Criminal Law of the Republic of Serbia) provide for the criminal act of pandering.

72. Depending on the manner of commission, the criminal act of pandering has two forms: inducement to prostitution (by recruitment, inducement, instigation or enticement) and so-called white slavery, i.e. trafficking in women. The criminal act can be perpetrated by both men and women who induce a female person of legitimate age to prostitution, irrespective of marital status and sexual experience. The perpetrators of these criminal acts are punished with 3 months to 5 years in prison.

73. The Law on Criminal Proceedings provides for compulsory cooperation with INTERPOL in connection with these criminal acts, from whose work the Federal Republic of Yugoslavia has been suspended because of the implementation of United Nations General Assembly resolution 47/1, which can have negative repercussions also in this field.

74. According to the 1993 statistical data, nine persons have been reported for this criminal act, out of whom three persons have been indicted and receive suspended sentences.

75. The statistical data do not indicate that the economic crisis, deepened by the imposition of the Security Council sanctions against the Federal Republic of Yugoslavia, has brought about an increase in prostitution. An indication of its extent are newspaper ads, such as those for so-called "escort agencies", which leave little doubt that overt or covert prostitution is involved, in some cases as part of organized international crime.

76. Furthermore, the Federal Republic of Yugoslavia is also a State party to the Convention for the Suppression of the Circulation and Traffic in Obscene Publications and the Protocol thereto. The Yugoslav Criminal Code criminalizes as a criminal act presenting pornographic material (art. 252). According to the statistical data for the last three years, no person has been reported for this criminal act in the Federal Republic of Yugoslavia.

77. As to the draft programme of action for the prevention of trafficking in persons and the exploitation of the prostitution of others, the Federal Republic of Yugoslavia supports all efforts conducive to the adoption of concrete recommendations and measures for the suppression of this deplorable practice and is in favour of an early adoption of the programme.

---